

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MOHAMMED BAH, HUGUE LOISMARE,  
ABDOU ELSAGHIR, TOPAJ FLURIM,  
RICHARD GRAY, MOUSSA DIABOU,  
DENNIS JOSEPH, BINH VU, ALBERT  
BOBO JOHNSON, and NEIL WYATT,

Petitioners,

-v-

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, IMMIGRATION  
AND CUSTOMS ENFORCEMENT OFFICE  
OF DETENTION AND REMOVAL  
OPERATIONS, and VARICK FEDERAL  
DETENTION CENTER,

Respondent.

No. 09 Civ. 3498 (RJS) (GWG)  
ORDER

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/21/09

RICHARD J. SULLIVAN, District Judge:

Before the Court is the Report and Recommendation (“Report”) of the Honorable Gabriel W. Gorenstein, Magistrate Judge, in connection with the above captioned Petition for a Writ of Habeas Corpus. For the reasons set forth below, the Court adopts the Report in its entirety.

Mohammed Bah, Hugue Louismare, Abdou Elsaghir, Topaj Flurim, Richard Gray, Moussa Diabou, Dennis Joseph, Binh Vu, Albert Bobo Johnson, and Neil Wyatt (“Petitioners”) commenced this action on a *pro se* basis on April 7, 2009, seeking a writ of habeas corpus relating to Petitioners’ detention by United States Immigration and Customs Enforcement in the Varick Detention Center located in New York, New York. In this matter, Petitioners simply challenge their detentions under the Fourth and Fifth Amendments to the United States Constitution. (Pet. ¶ 32.)

On April 14, 2009, the case was referred to Magistrate Judge Gorenstein and on September

23, 2009, Magistrate Judge Gorenstein issued the Report, recommending that Petitioners' application for a writ of habeas corpus be dismissed as moot. (Report at 1.) Specifically, Magistrate Judge Gorenstein found that, because all Petitioners have already been released from detention, there is no case or controversy for the Court to hear. (Report at 3.) Pursuant to Rule 72(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1), the parties were given ten (10) days to file written objections to the Report. As of the date of this Order, Petitioners have failed to file objections to any portion of Magistrate Judge Gorenstein's Report.

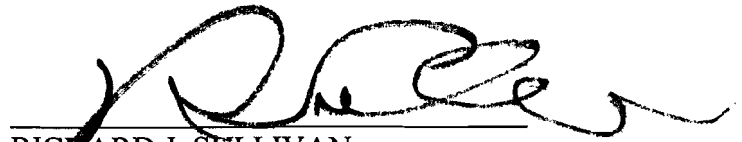
In reviewing a report and recommendation from a magistrate judge, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "'To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.'" *Cuadrado v. New York City Dep't of Correction*, No. 08 Civ. 3026 (PAC) (THK), 2009 WL 1033268, at \*1 (S.D.N.Y. Apr. 16, 2009) (quoting *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y.2003)); *see also Williams v. Senkowski*, No. 97 Civ. 3887 (DLC), 1999 WL 1192296, at \*1 (S.D.N.Y. Dec. 13, 1999).

After a careful review of the record and of Magistrate Judge Gorenstein's well-reasoned Report, the Court finds no clear error and adopts the Report in its entirety. For the reasons set forth therein, Petitioners' application for a writ of habeas corpus is DENIED. In addition, because Petitioners have not made a substantial showing of the denial of a constitutional right, a certificate

of appealability will not issue. *See* 28 U.S.C. § 2253; *Love v. McCray*, 43 F.3d 192, 195 (2d Cir. 2005). The Clerk of the Court is directed to close this case.

SO ORDERED.

Dated:           October 21, 2009  
                  New York, New York

  
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RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE

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